REMARKS

This is a response to the non-final Office Action of August 10, 2005. In this response, claims 1, 2, 9, 12, 19, 21, 22 and 29 are amended as indicated. It is believed that the foregoing amendments add no new matter to the instant application.

In the Office Action, there are rejections to claims 1, 2, 21 and 22 under 35 U.S.C. §102(e). The Applicant appreciates the Examiner's determination that claims 11-20 are allowable, and that claims 3-10 and 23-30 would be allowable if rewritten in independent form including all of the limitations of the independent claim and any intervening claims. The Applicant respectfully requests that there be reconsideration of the claims in view of the Applicant's remarks.

Rejections Under 35 U.S.C. §102(e)

Claims 1, 2, 21 and 22 stand rejected under 35 U.S.C. §102(e) as being anticipated by the IEEE article by *Nils Olof Johnnesson (The ETSI Computation Model: A tool for transmission plant in your telephone networks)*, hereinafter referred to as *Johnnesson,*

With respect to amended independent claims 1 and 21

With regard to the rejected independent claims 1 and 21, the Applicant respectfully traverses the Office Action position that *Johnnesson* teaches the same system and methods claimed in the present invention.

In brief, the present invention covers methods of estimating the subjective quality of a multimedia communications system in which audio, voice or video is digitized, compressed, formed into packets, transmitted over a packet network and then re-assembled and decoded by a receiving system. In particular, the present invention claims a system and method for

automatically estimating the subjective quality of a multimedia signal transmitted over a packet connection during a plurality of intervals in a single call.

Applicant appreciates that *Johnnesson* could be interpreted as to calculate a subjective quality in each network link or connection, which could arguably be done using the E model. However, Applicant respectfully asserts that the E-model described in *Johnnesson* teaches away from the present invention by disclosing to the E-model is really a transmission planning tool (page 73, column 2, last paragraph and page 74, column 1, second paragraph) and not a single call monitoring tool as claimed. In fact, in the E-model described in *Johnnesson,* it is taught that the first step of the subject of a valuation of a transmission impairment is done through controlled conditions in a laboratory (page 71, column 1, 4th paragraph). "A reference may be said to teach away when a person of ordinary skill, upon reading the reference, would be discouraged from following the path set out in the reference, or would be led in a direction divergent from the path that was taken by the applicants. ... in general, a reference will teach away if it suggests that the line of development flowing from the reference's disclosure is unlikely to be productive of the result sought by the applicants." *In re Gurley*, 2 F.3d 551, 31 U.S.P.Q.2d 1130, 1131 (Fed Cir. 1994).

Furthermore, Applicant respectfully asserts that *Johnnesson* does not teach or suggest determining one or more impairments in a plurality of different interval in a single call. Applicant respectfully contends that *Johnnesson* really teaches determining one or more impairments for multiple calls on a network link or connection.

In addition, the Applicant respectfully assert that *Johnnesson* does not teach or suggest the steps of "during more than one interval of said single call determining the effect of said one or more impairments on the estimated subjective quality of said multimedia signal during such interval" and "combining said subjective quality estimates from two or more of such intervals of said single call to determine an estimate of the subjective quality of said

multimedia signal' as now claimed.

For all of these reasons, the Applicant respectfully submits that these aspects of the present invention, as recited in claims 1 and 21, clearly are neither taught nor suggested by the prior art of record as required by *In re Royka*, 490 F.2d 981,180 USPQ 580 (CCPA 1974). Therefore, Applicant respectfully requests that this rejection be withdrawn.

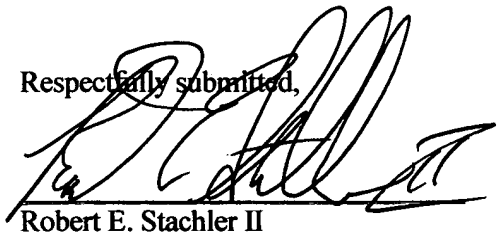
With respect to amended dependent claims 2 and 22

Claims 2 and 22 are dependent upon claims 1 and 21, respectively, which are believed to be allowable over the prior art made of record. Therefore, these claims are allowable as a matter of law. *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988).

CONCLUSION

In addition to the references applied in the Office Action, it is respectfully submitted that Applicant's invention, as now recited in claims 1-30 is neither anticipated nor rendered obvious by any of the other references cited in the Office Action. Therefore, Applicant respectfully submits that claims 1-30 are in condition for allowance and such action by the Examiner is earnestly solicited. If the Examiner has any questions, the Examiner is requested to contact Robert E. Stachler II at (404) 815-3708.

Respectfully submitted,



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